

Atty. Dkt. No. 5863-00203

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II. RELATED APPEALS AND INTERFERENCES

A prior appeal may have a bearing on the Board's decision in this appeal. The present application is a continuation of Serial Number 08/925,293 which was decided by this Board in Appeal No. 2000-0947. Appeal No. 2000-0947 was appealed to the Court of Appeals for the Federal Circuit 02-1048 decided October 17, 2002.

III. STATUS OF THE CLAIMS

Claims 21-39 and 41 are pending in the application and stand rejected. The attached Claims Appendix sets forth the currently pending claims.

IV. STATUS OF AMENDMENTS

No amendment has been proposed that has not been entered. (Applicants reserve the right to continue prosecution after the Board's decision and specifically notes several typographical errors.)

V. SUMMARY OF CLAIMED SUBJECT MATTER

Broadly, the present subject matter relates to a system and method for displaying messages and other information to a golfer on a golf course, and particularly to advertising messages displayed in a non-intrusive, non-distracting, tasteful manner and time. The messages are displayed based on the position of a golfer on a golf course using a Global Positioning Satellite system ("GPS") and comparing this GPS position with a database of message locations. The parent application, SN 07/804,368 now U.S. Pat. No. 5,364,093, described an invention for determining distances on a golf course using the Global Positioning Satellite system (GPS), e.g. the distance from the ball to the cup. While the '093 patent described generally the display of information to a golfer, it was most concerned with the display of distances and help information to the golfer. The present application refines how specific information – e.g. advertising, playing tips, warning messages, and other types of information – is communicated to the golfer based on the golfer's GPS position.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

All of the claims have been rejected as obvious under various combinations that all include Wang, Fukushima, and Dudley. The issues of this appeal are primarily § 103 issues related to these references. However, there is also a dispute as to the effect of Paul and Dimitriadis.

1. Is there motivation to make the proposed combination of Wang, Fukushima, and Dudley?
2. Do the proposed combinations disclose or suggest the claimed elements?
3. What is the effect of Paul?
4. What is the effect of Dimitriadis?

VII. ARGUMENT

The subject matter of this application has a tortured history and, not surprisingly, unusual facts. The claims now presented on appeal are different than prior appeal 2000-0947 and, therefore, merit independent consideration. However, prior appeal 2000-0947 and the attendant Federal Circuit decision 02-1048 are relevant and included herewith in the Related Proceedings Appendix.

Prior appeal 2000-0947 dealt with the combination of Wang, Fukushima, and Dudley. Although the Paul reference (U.S. Pat. No. 5,524,081) was of record before the Board in prior appeal 2000-0947, Paul had not been discussed by the Examiner or Applicant in the record except in passing reference. Although the Board affirmed the rejection of the claims in prior appeal 2000-0947 based on the combination of Wang, Fukushima and Dudley, the Board mentioned in footnote 6 that “In our view, Paul is the closest piece of prior art (from the prior art before us in this appeal) to the claimed invention.” The Federal Circuit affirmed the Board, but disregarded the Board’s reliance on the combination of Wang, Fukushima, and Dudley by instead applying Paul as the motivation to combine references. The Federal Circuit would not have affirmed the hypothetical combination of Wang, Fukushima, and Dudley as applied by the Board in prior appeal 2000-0947 absent its finding that Paul provided the motivation to do so. See, e.g. the dissent at p. 21 “The majority concedes that the Board never “cited[d] the Paul reference for this purpose,” and the majority’s sole support for its conclusion is a passage from the Paul reference that does not appear in the Board’s opinion.”

Most of the rejections do not rely on Paul or Dimitriadis. Of the rejections in paragraphs 3- 10 of the final Office Action, only paragraphs 6 and 9 apply Paul as a secondary reference, and only paragraphs 7-10 apply Dimitriadis as a secondary reference. Under the Board's appeal jurisdiction, 37 CFR 1.196(a), the Board is limited to "affirm or reverse the decision of the examiner . . . on the grounds and on the claims made by the examiner" Most of the rejections in the final Office Action do not invoke consideration of Paul or Dimitriadis. Of course, the Board can find a new ground for rejection, 37 CFR 1.196(b) which leads to a different course of action.

1. Without consideration of Paul, there is no motivation for the hypothetical combination of Wang, Fukushima and Dudley.

The prior art rejections in the final Office Action were under 35 U.S.C. § 103(a) as being unpatentable over a combination of U.S. Patent No. 5,056,106 to Wang et al. (hereinafter "Wang"), U.S. Patent No. 5,270,936 to Fukushima et al. (hereinafter "Fukushima"), and U.S. Patent No. 5,326,095 to Dudley (hereinafter "Dudley"), and various secondary references, e.g., U.S. Patent No. 5,664,948 to Dimitriadis et al. (hereinafter "Dimitriadis"), Paul, "GPS: A Guide to the Next Utility," by Hurn (hereinafter "Hurn"), and "RTCM Recommended Standards for Differential NAVSTAR GPS Service" (hereinafter "RTCM").

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 U.S.P.Q. 459 (1966), establish the background for determining obviousness under 35 U.S.C. §103. The proposed combination of Wang et al. in view of Fukushima et al. and Dudley is not suggested or motivated by any of the references.

Turning to the scope and content of the prior art, the discussion of Wang in the Board's prior decision (p. 9) is generally correct. Wang does not disclose using GPS on a golf course, determining distance on a golf course using GPS, or advertising on a golf course. (p. 13) Rather, Wang is directed to techniques for allowing golfers to determine distance and direction to key points on a golf course, and more particularly to a system for golf course distance determination. The system of Wang utilizes spread-spectrum signaling and code-division multiple access (CDMA) to allow a plurality of reference transmitters on a single course to operate on a non-interfering basis. (col. 2, lines 27-31)

Fukushima et. al. does show the use of GPS for navigation of vehicles (p. 10) Fukushima is directed to a vehicle map navigation system that utilizes GPS. According to the Fukushima disclosure, GPS receiver outputs coordinate data representing the absolute current position of the vehicle, which is

supplied to a central processing unit (CPU). (col. 2, lines 51-56) A memory card contains data groups corresponding to predetermined geographical key points, with each data group including point “name” data and point coordinates. (col. 2, line 68 - col. 2, line 3) Of the key points stored in the memory card, the CPU determines the closest point and displays information concerning the name of the key point and distance and direction to the key point. (col. 3, lines 7-20) Alternatively, the user may select among a set of the closest detected key points, and information concerning this selected key point will be displayed. (col. 4, lines 28-37) As another alternative, the user may select among any of the stored key points and have information displayed about that selected key point. (col. 5, lines 53-57) Because of the small size and the relatively low cost of the system, the system may be mounted on passenger cars, passenger tracks, bicycles and motorcycles, and may be carried by a person as a portable navigation system. (col. 6, lines 44-49)

Dudley does describe a golf information system for conveying information to a golfer. Dudley uses RF tags buried in the ground, such that when a golfer approaches a tag, certain information such as distance to the green can be conveyed. Dudley does say that advertising information can be conveyed when in proximity to a certain tag. (p. 12)

Dudley is directed to a system for providing yardage and position information at various points on a golf course hole based on proximity to a buried tag. In one embodiment, radio frequency (RF) identification tags are buried beneath the cart path on the golf hole at regularly spaced intervals. (col. 4, lines 1-5) Alternatively, the tags may be buried in a two-dimensional matrix so that readings are available at many more points and so that the cart does not have to remain on the cart path to receive information from the tag. (col. 4, lines 18-26) As a reading system passes over a tag, the reading system sends an interrogation signal that causes the tag to output its internally stored code. (col. 4, lines 5-9) This code may be utilized by the reading system to determine range information, such as distance to the green or a hazard. (col. 4, lines 10-13) In addition, the information to be output for each received tag code may be determined by a look-up table stored in the RAM of the reading system and correlated detailed sets of stored information. (col. 6, lines 46-50; col. 6, line 62 to col. 7, line 2) This look-up table may include advertising messages that are activated by particular tags. (col. 7, lines 13-16.)

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference or references

when combined must teach or suggest all the claim limitations. *In re Dembiczak*, 175 F.3d 994, 999, 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999); *In re Dance*, 160 F.3d 1339, 1343, 343, 48 U.S.P.Q.2d 1635, 1637 (Fed. Cir. 1998) (“To establish a prima face case of obviousness based on a combination of the content of various references, there must be some teaching, suggestion or motivation in the prior art to make the specific combination that was made by the applicant.”) The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant’s disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed Cir. 1991); MPEP §2143; *In re Rouffet*, 149 F.3d 1350, 47 U.S.P.Q.2d 1453 (Fed. Cir. 1998) (“When a rejection depends on a combination or prior art references, there must be some teaching, suggestion or motivation to combine the references.”); *Karsten Manufacturing Corporation v. Cleveland Golf Company*, 242 F.3d 1376, 1385, 58 U.S.P.Q.2d 1286 (Fed. Cir. 2001):

In holding an invention obvious in view of a combination of references, there must be some suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to select the references and combine them in the way that would produce the claimed invention.

The motivation to combine prior art references most often comes from the references themselves and must be clear. In particular, broad conclusory statements are not evidence of a motivation to combine. *Brown & Williamson Tobacco Corp. v. Phillip Morris, Inc.*, 229 F.3d 1120, 1125, 56 U.S.P.Q.2d 1456 (Fed. Cir. 2000). Regardless of the source, there must be some evidence of a motivation to combine. *In re Dembiczak*, 175 F.3 at 999 (“The range of sources available, however, does not diminish the requirement for actual evidence. That is, the showing must be clear and particular.”). First, there is no suggestion in Wang et al. (A-9) to make the proposed combination. Wang is relevant only to show a golf positioning system based on fixed radio transmitter triangulation. Wang describes a golf course with a plurality of transmitters broadcasting a spread spectrum ranging signal. When Wang et al. was filed – August 2, 1990 – GPS was known, although GPS was not operational and very expensive. There is no suggestion of GPS in Wang et al., and there is no motivation to do so. Wang et al. describes its own positioning and ranging scheme. Dudley is also inapposite, as it operates on a dissimilar principle based on proximity to buried tags.

Of course, if the proposed modification or combination would change the principle of operation, then the references are not sufficient to render the claims prima facie obvious. See, *In re Ratti*, 270 F.2d 810, 813, 123 U.S.P.Q. 349 (CCPA 1959). The operating principle of Wang is based on ranging signals from ground-based transmitters. The final Office Action apparently concedes that Wang and Fukushima

operate on different principles. Dudley operated to display information to a golfer based on proximity to a buried tag – *i.e.*, Dudley does not determine a position. Apparently, “Dudley is cited for its teaching of the desirability of transmitting advertisements to golfers at selected positions and not specifically to its position determination methods.” What the final Office Action failed to recognize is that use of fixed radio towers (Wang) or proximity (Dudley) would change the operating principle of the claimed invention. Because the operating principle is part of the claims, the proposed combination does not meet the claim limitations. The rejection was thus in error.

Second, there is no reasonable expectation of success in view of the teachings of Wang. This reference teaches only ground-based spread spectrum ranging signals that are alleged to be highly accurate. Indeed, there is no need to provide error corrections such as described and claimed in the present application. The primary errors in GPS include intentional degradation (SA), ionospheric, multipath, atmospheric, clock, etc. These errors are not present in Wang et al. (although other errors exist). Indeed, Wang et al. (col. 3, lines 43-50) claims it is highly accurate, presumably eliminating any need for accuracy enhancement (*e.g.* error corrected) that GPS would even be desirable. In 1994 GPS was not operational and uncorrected positions exceeded 50 meters in error.

Finally, the claim limitations are not taught or suggested by the proposed combination. Again, Wang et al. teaches only the desirability of a using an electronic aid for distance determinations and positioning on the golf course and a radio tower ranging and triangulation solution. As such, at most Wang et al. describes a problem searching for a solution.

A hypothetical combination must be suggested by one of the references or a motivation must be present in one of the references for such a combination. *Ex Parte Clapp*, 227 U.S.P.Q. 972 (Pat. Off. Bd. App. 1985). *In re Roufett*, 149 F.3d at 1355, U.S.P.Q.2d at 1456. The objective evidence of record – the references themselves and the Horne Declaration – teach away from the hypothetical combination. In holding an invention obvious in view of a combination of references, there must be some suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to select the references and combine them in the way that would produce the claimed invention. See, *e.g.*, *Heidelberger Druckmaschinen AG v. Hantscho Commercial Prods., Inc.*, 21 F.3d 1068, 1072, 30 USPQ2d 1377, 1379 (Fed. Cir. 1994) (When the patent invention is made by combining known components to achieve a new system, the prior art must provide a suggestion, or motivation to make such a combination.); *Northern Telecom v. Datapoint Corp.*, 908 F.2d 931, 934, 15 USPQ2d 1321, 1323 (Fed. Cir. 1990) (It is insufficient that the prior art disclosed the components of the patented device, either

separately or used in other combinations; there must be some teaching, suggestion, or incentive to make the combination made by the inventor.”); *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 1044, 1051, 5 USPQ 1434, 1438 (Fed. Cir. 1988).

For example, *In re Sang-Su Lee*, 277 F.3d 1338 (Fed. Cir. 2002), the Federal Circuit emphasized, “[w]hen patentability turns on the question of obviousness, the search for and analysis of the prior art includes evidence relevant to the finding of whether there is a teaching, motivation, or suggestion to select and combine the references relied on as evidence obviousness.” 277 F.3d. at 1343, citing *McGinley v. Franklin Sports, Inc.*, 262 F.3d. 1339, 1351-52, 60 USPQ.2d. 1001, 1008 (Fed. Cir. 2001) (“the central question is whether there is reason to combine [the] references,” a question of fact drawing on the Graham factors).

2. The Proposed Combination(s) do not Suggest the Claimed Elements

Because none of the cited references suggest the distance determination techniques of the present invention, it is not surprising that the references do not suggest the limitations in the present claims. Claims 21 and 32 are the broadest independent claims and are directed to advertising on a golf course based on the GPS determined position of the golfer. For example, claim 21 calls for “displaying the advertising message” if “the present position of the remote receiver is an advertising location” where the position is determined with GPS. Wang et al. shows a golf course ranging system based on ground based spread spectrum transmitters, and as such, teaches away from GPS use. Fukushima teaches use of GPS for navigation, but does not suggest an application to distance determination on a golf course or a display of an advertising message at a predetermined location. Dudley suggests displaying advertising to a golfer based on proximity to a buried tag. The proposed combination of Wang, Fukushima and Dudley, even if proper, does not meet the claim limitations of Claims 21 and 32, *e.g.* displaying the advertising message based on “the position of the remoter receiver relative to the message locations” where the position is determined with GPS.

In addition, Wang, Fukushima and Dudley each are missing elements of claims 21, 32 and 41. Wang does not disclose at least using a GPS system to locate the position of a remote GPS receiver or displaying advertising information based upon the position of the GPS receiver, and Wang requires a distance request from the user for a distance to be provided. None of the references disclose at least “a memory storing a set of message locations on a golf course,” (Claim 32) or “determining the position of a remote receiver on a golf course using the global positioning satellite system,” (Claim 41) or using a GPS

position to provide advertising messages to a golfer. Dudley does not disclose at least using a GPS system to locate the position of a remote GPS receiver on a golf course or displaying advertising messages by comparing the relative position of the remote GPS receiver with respect to the position of stored message locations (e.g. Claim 41). In essence, what the Examiner has done is to piece together aspects from each of these references to assert that claims 21-39 and 41 are obvious. At best, the subject matter but not the claimed limitations of claims 21-39 and 41 are found in the disparate references. Simply put, the proposed combination does not meet the claim limitations of the independent claims, 21, 32 and 41.

Claim 41 adds the limitation that present positions on the golf course are corrected, e.g. using the corrections supplied by a local area or wide area correction. (See also Claim 31). In the prior appeal the Board in affirming the Examiner's rejection of claim 21 simply reasoned that "nonobviousness cannot be established by attacking the references individually" when the rejection is based on the combination. (p. 20) The combination applied versus claim 21 – Wang in view of Fukushima and Dudley and further in view of either Hurn or RTCM – is not, however, suggested by any of the references or any other evidence and in fact changes the operating principle of the proposed combination. Further, there is no motivation to correct the signals of Wang or Fukushima or the proximity of Dudley for greater accuracy using differential corrections.

Even if made, the proposed combination does not meet the claim limitations of claims 21 and 32. For example, claim 21 calls for "selecting one or more advertising locations" and "comparing the one or more advertising locations with the present position of the remote receiver" and displaying an advertising message on the golf course. The hypothetical combination does not describe a memory (Claim 32) for "storing a set of message locations on the golf course" and "displaying the message to the golfer" if the GPS receiver coincides with one of the message locations. A supposition of the Board might be that given the combination, an artisan skilled in RF theory and database and memories that managed golf courses could "figure it out" given the "applied prior art clearly teaches the benefits." (p. 20) The legal test is, however, whether the combination meets the claim limitations, which clearly it does not. *Graham v. John Deere Co.*, 383 U.S. 1, 148 U.S.P.Q. 459 (1966).

While appellant contests that Paul is prior art, it is true that Paul describes broadcasting information such as advertising to all golf carts over the communications link. (col. 8, lines 15-21) But such a teaching does not meet the claim limitations of claims 21, 32 or 41. For example, claim 21 provides that the advertising message is displayed when the position of the receiver means coincides with

one of the advertising locations. This limitation is not disclosed or suggested in any of the references of the proposed combination. *Stratoflex, Inc. v. Aeroquip Corp.* 713 F.2d 1530, 218 U.S.P.Q. 871 (Fed. Cir. 1983) (the issue is not whether the differences would have been obvious, but whether the claimed invention as a whole would have been obvious). See also, the last limitation of claims 32 and 41. Thus, the broadcast to all carts, as taught by Paul, does not meet the claim limitation.

3. The effect of Paul.

Applicant's disagreement with this application of Paul is that it has been assumed without analysis that Paul is an effective reference to the subject matter of positional advertising on a golf course. The Federal Circuit acknowledged that Paul did not show positional advertising, but nevertheless applied Paul as if Paul were effective prior art. What the parent application (SN 07/804,368, now U.S. Patent No. 5,364,093) DOES show is broadcasting by radio "other information" between golfers and a base station (see e.g. Col. 4 lines 60-69 of U.S. Pat. No. 5,364,093). What Paul DOES show are examples of information that may be broadcast by radio to golfers. (See, Paul, Col. 8, lines 16-20) (examples include advertising, weather alerts, notices).

SUBJECT MATTER DISCLOSED

	Pat No. 5,364,093	Paul reference	SN 10/772,071
Distance information to golfer based on GPS position	Yes	Yes	Yes
Radio broadcast of information	Yes	Yes	Yes
Radio broadcast of "advertising" information	No	Yes	No
Advertising information to golfer based on GPS position	No	No	Yes

Of course, 35 USC § 120 provides that a CIP, such as the present application, "shall have the same effect, as to such invention, as though filed on the date of the prior application . . ." This leads to the situation where a CIP can have different filing dates for different claims, but "matter disclosed in the parent application is entitled to the benefit of the filing date of the parent application." *Waldemar Link, Gmbh v. Osteonics Corp.*, 32 F. 3d 556,558 (Fed. Cir. 1994).

Under the doctrine of inherency, new matter in a CIP may be entitled to the parent filing date. *Litton Sys., Inc. v. Whirlpool Corp.*, 728 F.2d 1423 (Fed. Cir. 1984)(“If matter added through amendment to a C-I-P application is deemed inherent in whatever the original parent application discloses, however, that matter also is entitled to the filing date of the original, parent application.”) Therefore, if the present application was claiming the broadcast by radio of advertising information, an issue whether such a claim would be entitled to the parent filing date would arise, because the parent does disclose radio communication of “other information” between a golfer and a base station. Curiously, if Applicant were claiming the broadcast by radio of information to a golfer, Paul would not be an effective reference, but because Applicant is claiming subject matter not disclosed in Paul, Applicant seems to be worse off according to the Final Office Action.

If Paul is being cited for the proposition that information, such as advertising, may be broadcast by radio, then under the doctrine of inherency, Paul is not an effective reference.

4. The Teaching of Dimitriadis

A Declaration under 37 CFR 1.131 swearing behind Dimitriadis was submitted February 17, 2005, but was deemed ineffective in the final Office Action. The Declaration evidences conception of the applicable subject matter prior to October 11, 1994 -- the effective date of Dimitriadis -- with diligence until filing on December 30, 1994. Submitted with the Declaration were five (5) pictures of screen shots from a Macintosh computer evidencing creation of the specification on August 13, 1994. This is prior to the October 11, 1994 effective date of Dimitriadis. The final Office Action is correct in noting that Dimitriadis is a CIP of SN 08/282,893 filed July 29, 1994 now U.S. Patent No. 5,627,549 to Park. However, the final Office Action applies new matter, found in Dimitriadis, not found in Park. That is, the subject matter applied by the Final Office Action is matter added to Dimitriadis after October 11, 1994 and not prior art to the claims on appeal. The Declaration submitted was effective for the subject matter cited in the Final Office Action.

* * *

In conclusion, the claims currently presented are allowable over the § 103 issues raised in the final Office Action, and applicant respectfully requests reconsideration and allowance in view of the traversal herein.

Included herewith in a separate paper, is an earlier-filed Petition for Extension of Time filed March 22, 2006 which relates to the original Appeal Brief filed January 9, 2006. If an additional extension is required, Appellant hereby requests the appropriate extension of time. The Commissioner is authorized to charge the required fees or credit any overpayment to Daffer McDaniel, LLP deposit account no. 50-3268.

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VIII. CLAIMS APPENDIX

21. A method for displaying an advertising message to a golfer on a golf course using a global positioning satellite system comprising the steps of:

positioning a remote global positioning satellite receiver on the golf course;

determining a present position of the remote receiver on the golf course using the global positioning satellite system;

selecting one or more advertising locations on the golf course;

comparing the one or more advertising locations with the present position of the remote receiver;
and

displaying the advertising message to the golfer if the present position of the remote receiver is an advertising location.

22. The method of claim 21, including a step of determining if the remote receiver is moving using said position and displaying said message when the remote receiver is moving.

23. The method of claim 21, including a step of determining if the remote receiver is moving using said position and displaying said message when the remote receiver is not moving.

24. The method of claim 22, the step of determining if the remote receiver is moving including the substeps of determining another position of the remote receiver and comparing said position and said other position to determine if the remote receiver is moving.

25. The method of claim 21, said message comprising a graphic depiction.

26. The method of claim 21, the displaying step including displaying a golf hole layout on said golf course at other locations on the golf course.

27. The method of claim 21, the displaying step including displaying golf information in addition to said advertising message at other locations on the golf course.

28. The method of claim 27, said golf information comprising a scorecard.

29. The method of claim 27, said golf information comprising a refreshment order page.

30. The method of claim 21, including a step of determining an approximate distance of a golf ball to a feature on the golf course including the substeps of storing the location of the feature in a database, positioning the remote receiver proximate to a golf ball, and determining the distance between said stored feature location and said remote receiver position.

31. The method of claim 21, including a step of determining an error correction for the global positioning satellite system comprising the substeps of:

positioning a global positioning satellite receiver at a reference location having a known position;

determining an apparent position of the reference location using the receiver; and

calculating an error correction based on said apparent position and said known position of the reference location.

32. An apparatus for displaying a predetermined message to a golfer on a golf course using a global positioning satellite system comprising:

a global positioning receiver for receiving signals indicative of an apparent position of the receiver means using the global positioning satellite system and positionable on the golf course;

a processor linked to said global positioning receiver for determining the position of the receiver on the golf course;

a memory storing a set of message locations on the golf course;

a processor for comparing the position of the receiver with the message locations; and

a display for displaying the message to the golfer when the position of the receiver is at a message location.

33. The apparatus of claim 32, said display being operable for displaying a graphic representation of said message.

34. The apparatus of claim 33, said display including a digitizer overlaying said graphic representation and a pen operable for providing inputs to said display.

35. The apparatus of claim 32, said display being operable for displaying a graphic representation of a golf hole to the golfer.

36. The apparatus of claim 32, said memory operable for storing different advertising messages and said processor operable for displaying different messages at different positions of the receiver on the golf course.

37. The apparatus of claim 32, wherein a message is a player tip associated with a location.

38. The apparatus of claim 32, said display being connected to the global positioning receiver for displaying the message based on movement of the receiver on the golf course.

39. The apparatus of claim 32, said display being operable for displaying a message based on an activity of the golfer.

41. A method for displaying a message to a golfer on a golf course using a global positioning satellite system comprising the steps of:

positioning a remote global positioning satellite receiver on the golf course;

determining a present position of the remote receiver on the golf course using the global positioning satellite system;

correcting said present position of the remote receiver;

storing one or more messages associated with one or more locations on the golf course in a memory of the remote receiver;

comparing the one or more message locations with a position of the remote receiver; and

displaying the associated message to the golfer if a position of the remote receiver is a message location.

1X. EVIDENCE APPENDIX

Declarations under 37 CFR § 1.131 were entered during the prosecution of the captioned case related to antedating Dimitriadis and Takahata. The Takahata Declaration was deemed sufficient to overcome the rejection. The Dimitriadis Declaration was considered, but deemed ineffective. Additionally, the Declaration of Rick Horne is of record and is relevant to at least claim 37 on appeal. Copies of the Declarations are included herewith.

X. RELATED PROCEEDINGS APPENDIX

A prior appeal may have a bearing on the Board's decision in this appeal. The present application is a continuation of Serial Number which 08/925,293 which was decided by this Board in Appeal No. 2000-0947. Appeal No. 2000-0947 was appealed to the Court of Appeals for the Federal Circuit 02-1048 decided October 17, 2002. Copies of both decisions are included herewith.